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10/674,667	09/30/2003	Francis M. Creighton IV	5236-000440	5015

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HARNESS, DICKEY, & PIERCE, P.L.C
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EXAMINER

RAMIREZ, JOHN FERNANDO

ART UNIT	PAPER NUMBER
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3777

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10/19/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/674,667
Filing Date: September 30, 2003
Appellant(s): CREIGHTON ET AL.

Kevin Pumm

For Appellant

EXAMINER'S ANSWER

Art Unit: 3737

This is in response to the appeal brief filed on 01/25/2010 appealing from the Office action mailed on 06/02/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application: Claims 39-41, 45-47 and 51-52 are pending and being appealed.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

3,971,963

Koike et al,

7-1976

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

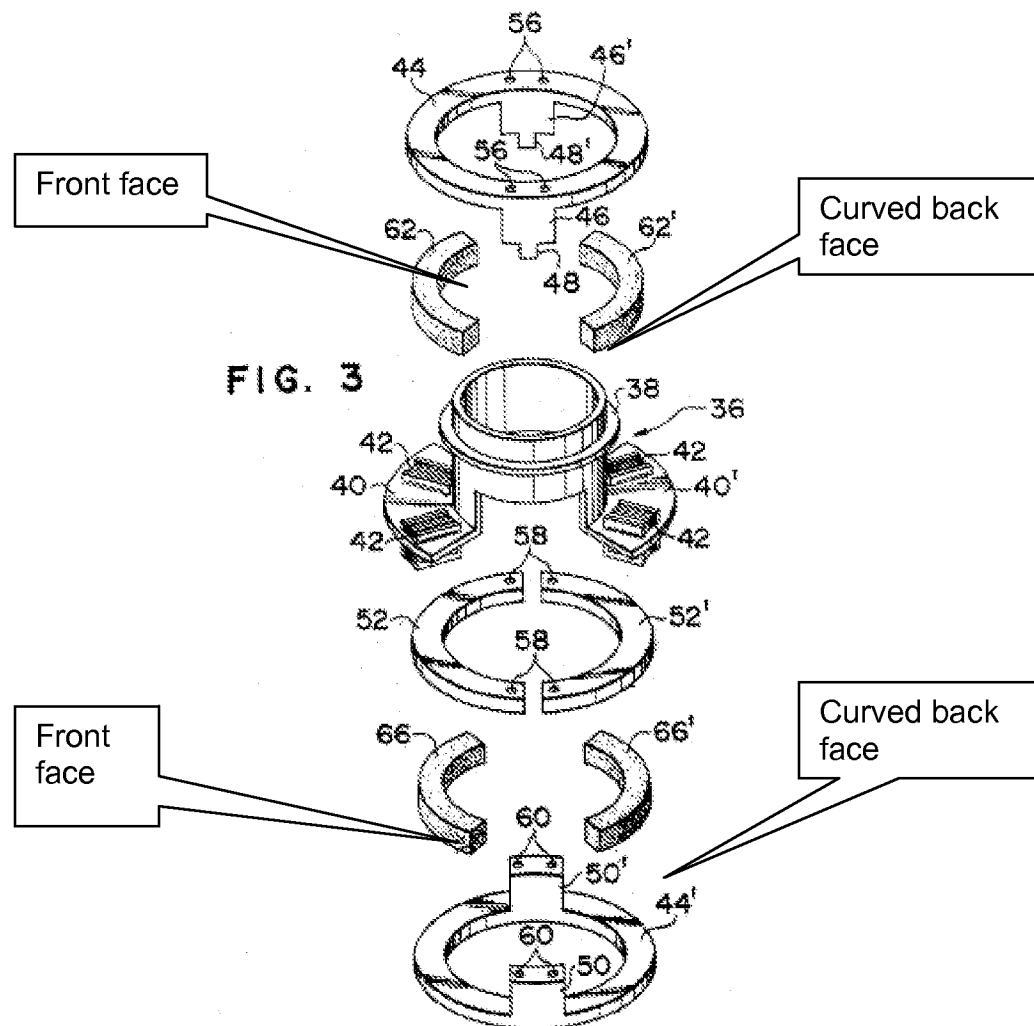
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 39-41, 45-47 and 51-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Koike et al (US 3,971,963).

Koike et al. disclose a method of making a magnet assembly comprising: providing a plurality of segments (e.g. 62, 62', 66, 66') of permanent magnet material configured, or when, to be arranged in parallel manner to form a compound magnet assembly (see figs. 3 and 4,); forming a radius of curvature on a top face (outer diameter surface of each of segments 62, 62', 66, 66') of each of the segments, such that the segments when assembled form a generally curved top surface having a radius of curvature that corresponds to a distance between the top face and an intended pivot axis (centerline of assembly in Fig. 4) of the assembled magnet; forming a curved back face (inner diameter surface of each of segments 62, 62', 66, 66') of each of the segments, such that the segments when assembled form a shape in accordance with at least one selected surface of constant contribution to the predetermined operating point, such that the segments of permanent magnet material will each contribute to the

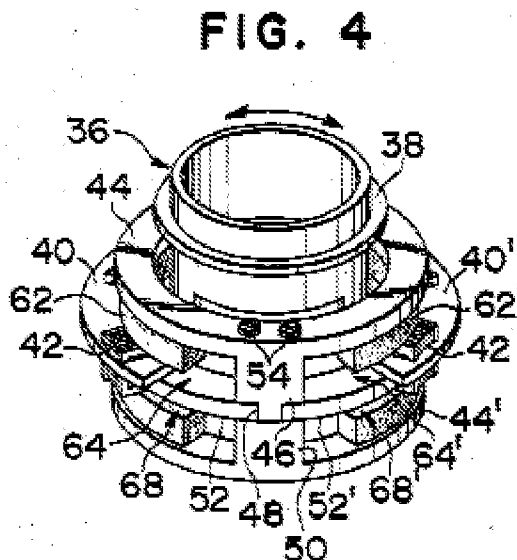
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magnetic field generated at the predetermined operating point spaced from the center of the assembled magnet (col. 2, lines 39-55); and assembling the segments to form the magnet assembly (see Fig. 3). Koike et al. disclose and illustrate in Figures 3 and 4 that the magnet comprises a front face generally facing the operating point, and an at least approximately curved back face facing away from the operating point, the back face generally conforming to a constant contribution surface of the magnetic field in the selected direction (col. 2, lines 39-55; col. 5, lines 28-63).



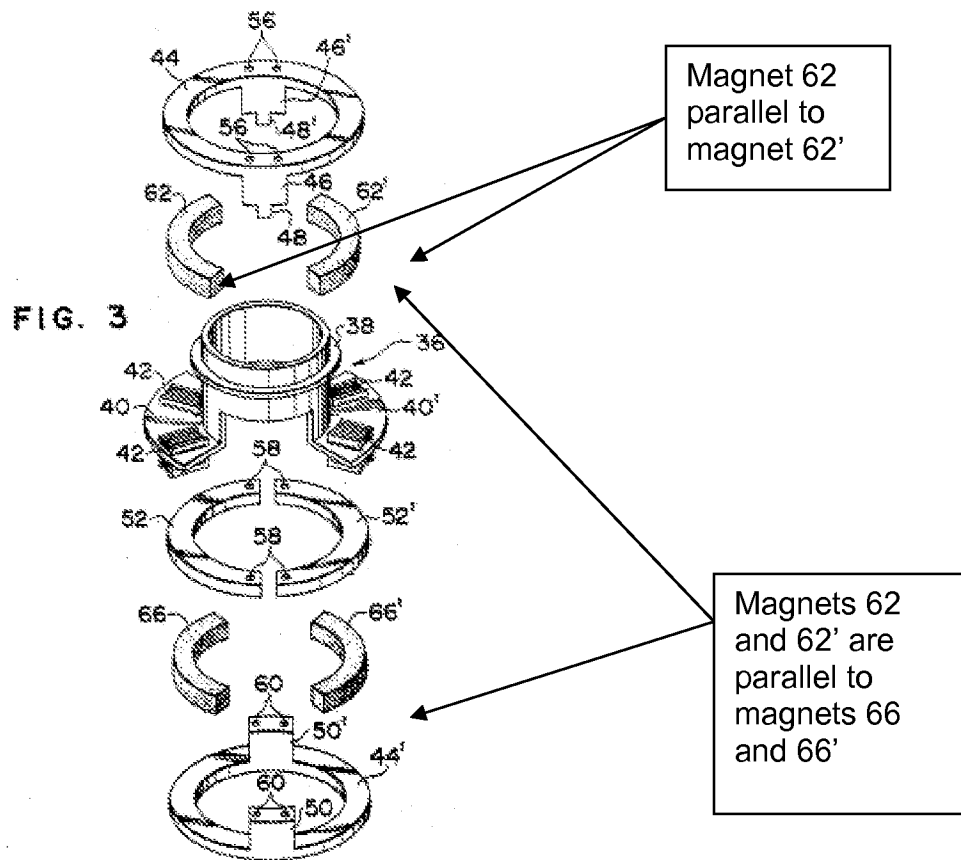
(10) Response to Argument

In response to applicant's argument that the Kioke et al. do not disclose the claimed compound magnet assembly, however, the examiner disagrees with applicant's comments. As seen in Figures 3 and 4, Kioke et al. teach magnet segments arranged to form a compound magnet assembly with magnets 62, 62' and magnets 66, 66' that are parallel to each other.



In response to applicant's argument that the Kioke et al. reference do not disclose segments arranged in a parallel manner. The examiner of record disagrees with applicant's comments for the following reasons:

First of all, Kioke et al.'s magnets (62, 62', 66, 66') are parallel to each other as shown in figs. 3 and 4.



Second, it appears in the present invention that the plurality of segments (FIG. 13 elements 500a-f; FIG. 10 elements b-i) are not parallel to respect each other, since their boundary lines don't have the same distance apart (called "equidistant") as shown in figs, 10, 13 and 18 of the present application SN 10/674667.

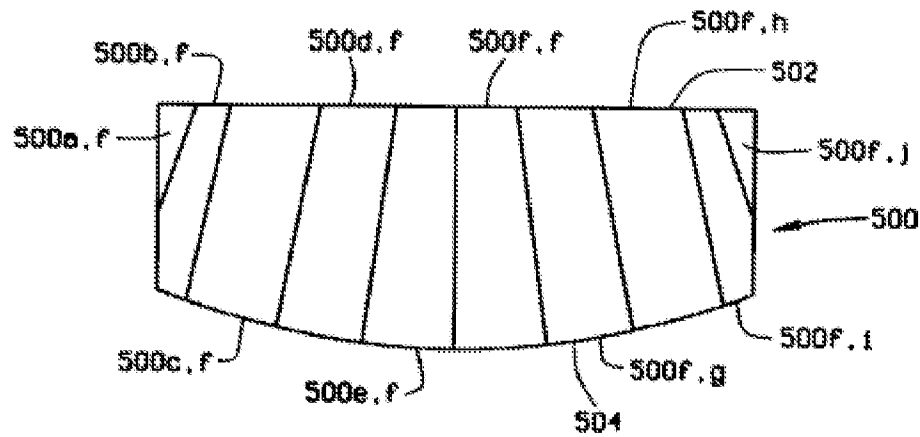


FIG. 13

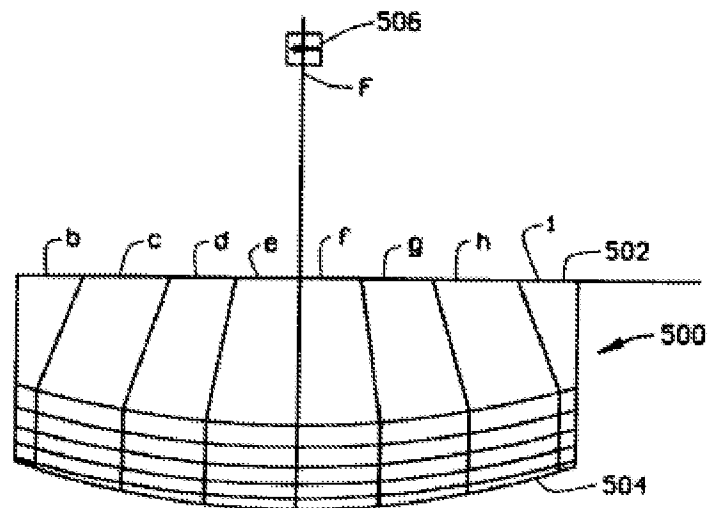


FIG. 10

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., to be arranged in a **parallel** manner) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the

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specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument that the Kioke et al. do not teach forming a magnet assembly that contributes to a magnetic field at an operating point spaced from the magnet assembly. The examiner disagrees with applicant's assertions. As argued before, in col. 2, lines 29-55 of the Kioke's specifications, it expressly states:

ically controlled diaphragm. More specifically, the
40 present invention provides an electromagnetic rotary
motion device which generally comprises stationary
magnetic flux generating means formed with at least
one arcuately curved continuous air gap concentric
with the cylindrical structure and establishing a sub-
45 stantially uniform magnetic field flowing in a direction
parallel to an axis of the cylindrical structure through
the air gap, armature means concentric with the flux
generating means and rotatable along the air gap about
the axis of the cylindrical structure through an angle
50 substantially proportional to a d.c. current applied to
the armature means, and means interconnecting the
armature means and the cylindrical structure for trans-
mitting the rotation of the armature means to the cylin-
55 drical structure.

Based on the above evidence, the rejections still read on the claims and are maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

/John F Ramirez/

Examiner, Art Unit 3777

John F Ramirez
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